

December 23, 2009

Jennifer J. Johnson, Secretary  
Board of Governors  
The Federal Reserve System  
20<sup>th</sup> Street and Constitution Ave, NW  
Washington, DC 20511

RE: Proposed changes to Closed-End Mortgage Rules (Docket No. R-1366)

Dear Ms. Johnson:

I respectfully submit the following comments.

**1. SECTION 226.36(e)(1) PROHIBITION ON STEERING**

This provision should be eliminated at least as to loans purchased or securitized by FNMA, FHLMC or GNMA. FNMA and FHLMC have already limited the maximum compensation that any lender may charge to the greater of 5% of the mortgage amount or \$1,000. As to securitized products the prime mortgage lending markets are highly competitive with, as studies by the Mortgage Banker's Association of American show, thin margins. Competition itself prohibits steering. Further, as to this steering safe harbor as set forth in Section 226.36, (2) the three loans – the loan with the lowest interest rate – the loan with the second interest rate and – the loan with the lowest total dollar amount for the origination and discount fees, should be specifically tied into the trade-off table contained on page 3 of the new Good Faith Estimate.

**2. SECTION 226.36(d)(1) LIMITATIONS ON LOAN ORIGINATION, COMPENSATION.**

The prohibition to loan originator compensation based on the terms or conditions of the loan should not apply with respect to securitized products. The prime lending markets are highly competitive markets with thin margins. Any loans eligible for purchase or securitization by Fannie Mae and Freddie Mac should not be subject to the restrictions against term based compensation. Further, as to FHA and VA loans the authority of the Federal Housing Administration and the Veterans Affairs is sufficient to provide oversight with respect to these loans.

### **3. SECTION 226.4 – THE PROPOSED “ALL IN” FINANCE CHARGE**

What Congress has statutorily exempted from the APR calculation, the Federal Reserve Board is powerless to “unexempt” absent Congressional Action, the enactment of the proposed rule will result only in expensive litigation. The “exemption” authority cited at 74 Fed. Reg at 43,323 cannot and will be construed to give the Board the authority to rewrite the statute. The proposal should be dropped.

Thank you for the opportunity to comment.

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